IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

Crl.MC.No. 404 of 2007()

(CC NO.754/06 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, MUVATTUPUZHA)

PETITIONER/ ACCUSED:

INDIRA RAJAN, W/O.RAJAN,MINARA HOUSE,
PERUMBAVOOR,PRINCIPAL, MET PUBLIC SCHOOL,
PERUMBAVOOR.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: RESPONDENTS/COMPLAINANT & STATE

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1. MATHEW GEORGE, S/O.MATHEW, KURINJIKATT,
   MULANTURUTHY, ERNAKULAM.

2. THE SI OF POICE, PERUMBAVOOR POLICE
   STATION.

3. STATE REP.BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.404 of 2007

Dated this the 19th day of February 2007

O R D E R

The petitioner is the accused in a prosecution initiated under Sections 406 and 420 I.P.C. Cognizance has been taken on the basis of a final report submitted by the police after due investigation. The crux of the allegations against the petitioner is that she induced the defacto complainant, the parent of a child, to part with amounts with dishonest intention and refused to return the amounts. Cognizance has also been taken by the learned Magistrate. The case stands posted for appearance of the petitioner.

2. The learned counsel for the petitioner submits that the allegations against the petitioner are false and that the allegations do not reveal the offence punishable under Sections 406 and 420 I.P.C.

3. I am of the opinion that the petitioner must appear before the learned Magistrate and claim discharge under Section 239/240 Cr.P.C. In every case, where a discharge/acquittal is a possibility, it is not necessary for this court to invoke the extraordinary inherent jurisdiction available under Section 482

Cr.P.C. I shall scrupulously avoid any detailed discussion on merits. Suffice it to say that I do not find any satisfactory reason to justify the invocation of the powers under Section 482 Cr.P.C. The petitioner must appear before the learned Magistrate and claim discharge at the stage of Section 239/240 Cr.P.C.

4. The learned counsel for the petitioner submits that if unnecessarily personal appearance of the petitioner were insisted, the petitioner, a woman and Principal of a School, would suffer needless prejudice and harassment. I need only observe that the petitioner can appear before the learned Magistrate through learned counsel and claim discharge. Her application for exemption from personal appearance shall be allowed by the learned Magistrate until hearing is done under Section 239/240 Cr.P.C. Only when the learned Magistrate feels that she must appear personally for the purpose of framing charges then only her personal appearance shall / need be insisted.

5. With the above observations, this Criminal Miscellaneous Case is dismissed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006